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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/849,185	05/20/2004	Marcel Joseph Louis Mampaey	Q81536	7244

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SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

EXAMINER	
SALL, EL HADJI MALICK	
ART UNIT	**PAPER NUMBER**
2457	

NOTIFICATION DATE	DELIVERY MODE
06/11/2010	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

sughrue@sughrue.com
PPROCESSING@SUGHRUE.COM
USPTO@SUGHRUE.COM

Office Action Summary	Application No.	Applicant(s)	
	10/849,185	MAMPAEY ET AL.	
	Examiner	Art Unit	
	EL HADJI M. SALL	2457	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *09 November 2009*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-10* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1. In view of the Pre-Appeal Brief filed on November 09, 2009, PROSECUTION IS HEREBY REOPENED. as set forth below. Claims 1-10 are pending. Claims 1-10 represent method for selecting an application sever, a related call session control network element, a related primary application server and a related called user terminal.

2. applicant's arguments with respect to claims 1-10 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. Claims 1-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ejzak U.S. 6,954,654 in view of Hsu et al. U.S. 20040010473, further in view of Landherr et al. U.S. 6,880,156.

Ejzak teaches the invention substantially as claimed including provision of services in a communication system including an interworking mobile switching center (abstract).

As to claims 1, 3, 5 and 9, Ejzak teaches a method for selecting an Application Server in an Internet Protocol multimedia network (IMMN) upon reception of an Internet Protocol Multimedia call destined to a called party terminal (CDPT), said method comprising the step of:

a call session control network element (CSCF) (figure 3), and an IP multimedia call (column 2, lines 55-58);

said primary application server (AS.sub.PRIM), upon analysis of said incoming IP multimedia call presenting said incoming IP multimedia call to said called party terminal (CDPT) together with a set of service applications for answering (614) said incoming call, said set of service applications being determined in said analysis (column 15, lines 1-13, Ejzak discloses the S-CSCF then performs (611) the standard call delivery procedure with the HSS and MSC…The MSC alerts (613) the called party, who answers (614) to complete the call)

Ejzak fails to teach explicitly intercepting an IP multimedia call and a selection of at least one service application from said set of service applications.

However, Lee teaches computer system with mode switching function and method of controlling the same. Lee teaches intercepting (detecting) an IP multimedia call and a selection of at least one service application from said set of service

applications (column 2, lines 47-60, Lee discloses an incoming call is detected from the modem, and selection of service application programs).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Ejzak in view of Lee to provide intercepting an IP multimedia call, and a selection of at least one service application from said set of service applications in order to provide a switching function for supporting a variety of communication services (column 2, lines 8-10 of Lee).

Ejzak and Lee fail to teach explicitly activating an application server.

However, Landherr teaches demand responsive method and apparatus to automatically activate spare servers. Landherr teaches activating an application server (column 2, lines 20-22, Landherr discloses the allocator causing the server application to activate).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the application server taught by Ejzak in view of Lee, further in view of the activated application server of Landherr to provide activating a dedicated primary application server (AS.sub.PRIM) in order to support the requesting server when the load exceed the threshold (abstract).

As to claim 2, Ejzak teaches the method for selecting an Application Server according to claim 1, characterized in that said method further comprises the step of:

said call session control network element (CSCF) based on said at least one selected service application invoking at least one secondary Application Server

(AS1...ASn) corresponding to said at least one selected service application (column 16, lines 1-9).

As to claim 4, Ejzak teaches the Call Session Control network element (CSCF) according to claim 3, CHARACTERISED IN THAT said Call Session Control network element (CSCF) further comprises a Secondary Application server invocation means (SASIM), coupled with an input to an output of said Selection receiving means (SRM) and adapted to activate based on said at least one selected service application at least one secondary Application Server (AS1 . . . ASn) corresponding to said at least one selected service application (column 16, lines 1-9).

As to claim 6, Ejzak teaches the Primary Application Server (AS.sub.PRIM) according to claim 5, CHARACTERISED IN THAT said call presentation information forwarding means (CPM) is adapted to forward said call presentation information of said incoming IP multimedia call and/or said set of service applications for answering said incoming call via an HyperText Transfer Protocol session (column 3, line 66 to column 4, line 9).

As to claim 7, Ejzak teaches the Primary Application Server (AS.sub.PRIM) according to claim 5, CHARACTERISED IN THAT said call presentation information forwarding means (CPM) is adapted to forward said call presentation information of

said incoming IP multimedia call and/or said set of service applications for answering said incoming call via an Wireless Application Protocol session (column 7, lines 19-26).

AS to claim 8, Ejzak teaches the Primary Application Server (AS.sub.PRIM) according to claim 5, CHARACTERISED IN THAT said call presentation information forwarding means (CPM) is adapted to forward said call presentation information of said incoming IP multimedia call and/or said set of service applications for answering said incoming call via said Call session control network element (CSCF) (column 9, lines 4-11).

As to claim 10, Ejzak teaches the Called Party Terminal (CDPT) according to claim 9, CHARACTERISED IN THAT said application presentation mean s (APM) is a web-browser (column 3, lines 16-22, Ejzak discloses that the invention is designed to use emerging internet standard such as SIP (i.e. text-based protocol that is based on HTTP and MIME, which makes it suitable and very flexible for integrated voice-data applications. SIP is designed for realtime transmission, uses fewer resources and is considerably less complex than H.323. Its addressing scheme uses URLs and is human readable (i.e. "web browser"); for example: sip:john.doe@company.com) for IMS (IP multimedia subsystem) signaling for establishing a call).

Response to Arguments

5. Applicant's arguments filed 11/09/09 have been fully considered but they are not persuasive.

(A) Applicant argues that Ejzak does not teach or suggest that "after analyzing of an incoming IP multimedia call, the S-CSCF presents the call to the called party together with a set of service applications for answering the incoming call, as claimed".

In regards to point (A), examiner respectfully disagrees.

In column 15, lines 1-13, Ejzak discloses The S-CSCF then performs (611) the standard call delivery procedure with the HSS and MSC...The MSC alerts (613) the called party, who answers (614) to complete the call.

(B) Applicant argues that the Examiner cites Landherr as allegedly teaching "activating a dedicated primary application server". However, Applicant respectfully submits that Landherr has absolutely no relevance to the claimed invention. Applicant further argues that the Examiner has not provided any supportable objective reasoning why one of ordinary skill in the art would have been motivated to modify Ejzak in view of Landherr.

In regards to point (B), examiner respectfully disagrees.

column 2, lines 20-22, Landherr discloses the allocator causing the server application to activate.

In response to applicant's argument that the Examiner has not provided any supportable objective reasoning why one of ordinary skill in the art would have been motivated to modify Ejzak in view of Landherr, the Examiner recognizes that obviousness may be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988), *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992), and *KSR International Co. v. Teleflex, Inc.*, 550 U.S. 398, 82 USPQ2d 1385 (2007). In this case, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the application server taught by Ejzak in view of Lee, further in view of the activated application server of Landherr to provide activating a dedicated primary application server (AS.sub.PRIM) in order to support the requesting server when the load exceed the threshold (abstract).

Conclusion

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to El Hadji M Sall whose telephone number is 571-272-4010. The examiner can normally be reached on 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on 571-272-4001. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/El Hadji M Sall/

Examiner, Art Unit 2457

/ARIO ETIENNE/

Supervisory Patent Examiner, Art Unit 2457